

KEVIN V. RYAN (CSBN 118321)
United States Attorney

EUMI L. CHOI (WVBN 0722)
Chief, Criminal Division

MICHELLE MORGAN-KELLY (DEBN 3651)
Assistant United States Attorney

450 Golden Gate Avenue, Box 36055
San Francisco, California 94102
Telephone: (415) 436-6960

Attorneys for Plaintiff

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

UNITED STATES OF AMERICA,)	No.: CR 05-00431 CRB
)	
Plaintiff,)	PARTIES' STIPULATION AND
)	PROPOSED ORDER CONTINUING
v.)	STATUS HEARING AND EXCLUDING
)	TIME UNDER 18 U.S.C. § 3161(h)(8)(A)
)	
MIGUEL ANGEL MARCELO-CORTEZ,)	
)	
Defendant.)	
)	
)	
)	

The parties stipulate and agree, and the Court finds and holds, as follows:

1. The parties appeared on the instant matter on July 14, 2005 for defendant's initial appearance on the indictment. The matter was continued until July 27, 2005 for initial appearance before the Honorable Charles R. Breyer and time was excluded pursuant to Title 18 U.S.C. § 1361, et. seq.

2. At the July 27, 2005 initial appearance, Assistant Federal Public Defender Ronald Tyler, who represents the defendant, requested a continuance based upon effective preparation of counsel and taking into account that he will be out of the District for two weeks in August, 2005.

The court set a date for a status hearing for August 31, 2005, and the parties requested that the

time period from July 27, 2005 to August 31, 2005 be excluded from the calculation of time under the Speedy Trial Act.

3. In light of the foregoing facts, the failure to grant the requested exclusion would unreasonably deny counsel for the defense the reasonable time necessary for effective preparation, taking into account the exercise of due diligence. See 18 U.S.C. § 3161(h)(8)(A), (B)(iv). The ends of justice would be served by the Court excluding the proposed time period. These ends outweigh the best interest of the public and the defendant in a speedy trial. See id. § 3161(h)(8)(A).

5. For the reasons stated, the time period from July 27, 2005 through August 31, 2005 shall be excluded from the calculation of time under the Speedy Trial Act.

SO STIPULATED.

DATED: 7-27-05

Respectfully Submitted,

/s/
MICHELLE MORGAN-KELLY
Assistant United States Attorney

DATED: 8-3-05

/s/
RONALD TYLER
Counsel for Miguel Angel Marcelo-Cortez

PURSUANT TO STIPULATION, IT IS SO ORDERED.

DATED: August 08, 2005

HON. CHARLES
United States District Judge

